

Patent
A04P3006-US1

REMARKS/ARGUMENT 3

The Examiner subjected claims 1-15 to a restriction requirement. The Examiner stated that the application contains claims directed to the following patentably distinct inventions:

- I. Claims 1-14, drawn to a method for determining heart rate recovery, classified in class 600, subclass 519; and
- II. Claim 15, drawn to an implantable cardiac device, classified in class 600, subclass 509.

The Examiner required Applicant under 35 U.S.C. §121 to restrict the application to one of the above inventions.

Applicant has elected Group I for prosecution on the merits, without traverse.

Examiner further stated that the application contains claims directed to the following patentably distinct species:

- I. The embodiment wherein step (b) comprises identifying the first heart rate when at least one heart rate measurement exceeds the first heart rate measurement threshold for a predetermined period of time (see Claim 2); and
- II. The embodiment wherein step (b) comprises identifying the first heart rate when the activity level exceeds the first activity threshold for a predetermined period of time (see Claim 3).

Applicant has elected Species I for prosecution on the merits, without traverse and has accordingly withdrawn claims 6-12 and 15.

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Applicant believes that the above remarks are fully responsive to the Office Action dated August 29, 2005. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call Steven M. Mitchell at (408) 522-6101.

Pursuant to 37 C.F.R. 1.136(a)(3), Applicant hereby requests and authorizes the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. 1.16 and 1.17, to Deposit Account No. 22-0265.

Respectfully submitted,

Dated: 9/15/05

By: 

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